

EMPLOYMENT AND DAY SERVICES PROTOCOL

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NOTE: Employment and Day Services includes an array of individualized services and supports designed to enable a person to acquire, retain, or improve skills in the area of self-care, sensory/motor development, socialization, daily living skills, communication, community living, employment, and social skills. As a matter of policy, employment is the preferred option for persons with intellectual disabilities when: a) employment is preferred by the person; b) the person is reasonably expected, with the provision of such individualized services and supports, to be able to successfully acquire and maintain employment and to perform the tasks and responsibilities that will be expected as part of his or her employment; and c) medically necessary, consistent with the guidelines set forth herein.

A. Initial Employment and Day Services (Facility-Based Day, Community-Based Day, Supported Employment)

1. Medical necessity review questions:

- a. Is there sufficient information in the Individual Support Plan (ISP) to document that the service recipient has functional limitations involving self-help, socialization, and adaptive skills that are needed to participate in meaningful community activities, which may include acquiring and successfully maintaining paid employment; AND
- b. Is there sufficient information in the Individual Support Plan (ISP) to justify that the service recipient needs individualized services and supports to enable the service recipient to:
 - (1) Acquire, retain, or improve self-help, socialization, and adaptive skills to participate in meaningful community activities with *specific* therapeutic goals and objectives; OR
 - (2) To acquire and successfully maintain paid employment?
- c. Is the type of Employment and Day Services requested appropriate based on the service recipient's needs, therapeutic goals, and objectives?
- d. Can the service recipient be safely supported in the Employment and Day Services setting requested with minimal risk of self-harm, harm to others, or damage to property?

NOTE: In general, Supported Employment should help to encourage greater independence in the performance of the job functions over time, such that 1 to 1 staffing would not be required on a continuous basis, but rather, gradually reduced as the person becomes more independent. Community-Based Day Services may involve shared community-based activities, where a single staff person can support more than one

service recipient in achieving therapeutic goals and objectives. Except under exceptional circumstances, Supported Employment or Community-Based Day Services will not be approved if the service recipient requires more than 1 to 1 staffing (including the need for additional staff to be available for transfers and/or behavioral supervision/intervention). Any request for 2 to 1 staffing in any Employment and Day Services setting (i.e., 2 staff to one service recipient) or greater must be reviewed and approved by the DIDD Central Office. Such requests must be submitted in writing and must specify the staffing needs, the service recipient's medical conditions, diagnoses, and/or disabilities that create the need for such intensive staffing, and the specific functions or tasks the direct care staff are expected to perform, including the frequency with which each task must be performed.

If **YES to all** of the criteria specified in "1.a" through "1.d" above, proceed to Question #2.

If **NO to any** criterion specified in "1.a" through "1.d" above, stop and deny as **not medically necessary**. All of the unmet medical necessity criteria must be specified in the denial letter. Applicable prongs of medical necessity may include:

- "Not necessary to treat" ("1.a" through "1.c");
- "Not safe and effective" ("*The type, scope, frequency, intensity, and duration of a medical item or service must not be in excess of the enrollee's needs.*") ("1.c" and "1.d"); and
- "Not the least costly adequate alternative" ("1.c" and "1.d").

In addition, deny as a **non-covered service** any portion of the requested amount of Employment and Day Services requested which *exceeds* the waiver service limit of five (5) days per week and 243 days per service recipient per program year.

2. Is the amount of Employment and Day Services requested *consistent with* and not *in excess of* the amount of Employment and Day Services needed to meet the service recipient's needs and to accomplish the therapeutic goals and objectives?

If **YES**, stop and **approve** the requested amount of Employment and Day Services, subject to waiver service limits of five (5) days per week and 243 days per service recipient per program year.

If **NO**, **approve** that portion of the total amount of Employment and Day Services requested that is *consistent with* the amount of Employment and Day Services needed to meet the service recipient's needs and to accomplish the therapeutic goals and objectives. **Deny as not medically necessary** that portion of the total amount of Employment and Day Services requested that is *in excess of* the amount of Employment and Day Services needed to meet the service recipient's needs and to accomplish the therapeutic goals and objectives. Applicable prongs of medical necessity may include:

- "Not necessary to treat;"
- "Not safe and effective" ("*The type, scope, frequency, intensity, and duration of a medical item or service must not be in excess of the enrollee's needs.*") and
- "Not the least costly adequate alternative."

In addition, deny as a **non-covered service** any portion of the requested amount of Employment and Day Services requested which *exceeds* the waiver service limit of five (5) days per week and 243 days per service recipient per program year.

B. Continuation of Employment and Day Services

1. Medical necessity review questions:

- a. Is there sufficient information in the Individual Support Plan (ISP) to document that the service recipient *continues* to have functional limitations involving self-help, socialization, and adaptive skills that are needed to participate in meaningful community activities, which may include acquiring and successfully maintaining paid employment; **AND**
- b. Is there sufficient information in the Individual Support Plan (ISP) to justify that the service recipient *continues* to need individualized services and supports to enable the service recipient to:
 - (1) Acquire, retain, or improve self-help, socialization, and adaptive skills to participate in meaningful community activities with *specific* therapeutic goals and objectives; **OR**
 - (2) To acquire and successfully maintain paid employment?
- c. Is the type of Employment and Day Services requested *still* appropriate based on the service recipient's needs, therapeutic goals, and objectives?
- d. Can the service recipient be safely supported in the Employment and Day Services setting requested with minimal risk of self-harm, harm to others, or damage to property?

NOTE: In general, Supported Employment should help to encourage greater independence in the performance of the job functions over time, such that 1 to 1 staffing would not be required on a continuous basis, but rather, gradually reduced as the person becomes more independent. Community-Based Day Services may involve shared community-based activities, where a single staff person can support more than one service recipient in achieving therapeutic goals and objectives. Except under exceptional circumstances, continuation of Supported Employment or Community-Based Day Services will not be approved if the service recipient requires more than 1 to 1 staffing (including the need for additional staff to be available for transfers and/or behavioral supervision/intervention). Any request for continuation of 2 to 1 staffing in any Employment and Day Services setting (i.e., 2 staff to one service recipient) or greater must be reviewed and approved by the DIDD Central Office. Such requests must be submitted in writing and must specify the staffing needs, the service recipient's medical conditions, diagnoses, and/or disabilities that create the need for such intensive staffing, and the specific functions or tasks the direct care staff are expected to perform, including the frequency with which each task must be performed.

If **YES to all** of the criteria specified in "1.a" through "1.d" above, proceed to Question #2.

If **NO to any** criterion specified in "1.a" through "1.d" above, stop and deny as **not medically necessary**. All of the unmet medical necessity criteria must be specified in the denial letter. Applicable prongs of medical necessity may include:

- "Not necessary to treat" ("1.a" through "1.c");
- "Not safe and effective" ("*The type, scope, frequency, intensity, and duration of a medical item or service must not be in excess of the enrollee's needs.*") ("1.c" and "1.d"); and
- "Not the least costly adequate alternative" ("1.c" and "1.d").

In addition, deny as a **non-covered service** any portion of the requested amount of Employment and Day Services requested which *exceeds* the waiver service limit of five (5) days per week and 243 days per service recipient per program year.

If previously approved Employment and Day Services are reduced or terminated, issue 20 days advance notice (inclusive of mail time) of reduction or termination of services, as applicable, indicating that the services will be reduced or terminated on the 21st day from the date of the notice. The previously approved amount of Employment and Day Services shall continue to be authorized and reimbursed pending such advance notice period.

The service recipient may file a timely appeal regarding the reduction/termination of Employment and Day Services within 40 days from the date of the notice (inclusive of mail time). If an appeal is received within 20 days from the date of notice (inclusive of mail time), the service recipient may request continuation of the previously approved amount of covered Employment and Day Services pending resolution of the appeal, in which case such previously approved amount of covered Employment and Day Services shall continue pending notification from TennCare that the appeal has been resolved and that continuation of benefits may be stopped.

2. Does the amount of Employment and Day Services requested *continue* to be *consistent with* and not *in excess of* the amount of Employment and Day Services needed to meet the service recipient's needs and to accomplish the therapeutic goals and objectives?

If **YES**, stop and approve the requested amount of Employment and Day Services, subject to waiver service limits of five (5) days per week and 243 days per service recipient per program year.

If **NO**, approve that portion of the total amount of Employment and Day Services requested that *continues* to be *consistent with* the amount of Employment and Day Services needed to meet the service recipient's needs and to accomplish the therapeutic goals and objectives. Deny as **not medically necessary** that portion of the total amount of Employment and Day Services requested that is *in excess of* the amount of Employment and Day Services needed to meet the service recipient's needs and to accomplish the therapeutic goals and objectives. Applicable prongs of medical necessity may include:

- "Not necessary to treat;"
- "Not safe and effective" ("*The type, scope, frequency, intensity, and duration of a medical item or service must not be in excess of the enrollee's needs.*"); and
- "Not the least costly adequate alternative."

In addition, deny as a **non-covered service** any portion of the requested amount of Employment and Day Services requested which *exceeds* the waiver service limit of five (5) days per week and 243 days per service recipient per program year.

If previously approved Employment and Day Services are reduced or terminated, issue 20 days advance notice (inclusive of mail time) of reduction or termination of services, as applicable, indicating that the services will be reduced or terminated on the 21st day from the date of the notice. The previously approved amount of Employment and Day Services shall continue to be authorized and reimbursed pending such advance notice period.

The service recipient may file a timely appeal regarding the reduction/termination of Employment and Day Services within 40 days from the date of the notice (inclusive of mail time). If an appeal is received within 20 days from the date of notice (inclusive of mail time), the service recipient may request continuation of the previously approved amount of covered Employment and Day Services pending resolution of the appeal, in which case such previously approved amount of covered Employment and Day Services shall continue pending notification from TennCare that the appeal has been resolved and that continuation of benefits may be stopped.